

STATE OF NEW HAMPSHIRE
DEPARTMENT OF LABOR
CONCORD, NEW HAMPSHIRE



V

TAYLOR COMMUNITY

DECISION OF THE HEARING OFFICER

Nature of Dispute: RSA 275:43 I unpaid wages

Employer: Taylor Community
435 Union Ave
Laconia NH 03246

Date of Hearing: **September 23, 2014**

Case No. 48604

BACKGROUND AND STATEMENT OF THE ISSUES

A Wage Claim was filed with the Department of Labor on August 4, 2014. The notice was sent to the employer and there was an objection. The objection was sent to the claimant and there was a request for a hearing. The Notice of Hearing was sent to both parties on September 2, 2014.

The claimant was hired on January 28, 2013 and worked for seventeen months for the employer. At the orientation the claimant did not take the insurance offered by the employer. The benefit for not taking the insurance coverage was to receive \$40.00 every paycheck.

On June 21, 2014 the claimant testified that she just realized she was not getting the \$40.00 every two weeks. She inquired at Human Resources and learned that she never filled out the forms necessary to get the money and there was no record of her proof of insurance.

The company said that they would look into the problem to see if there was an error on their part. The claimant is seeking \$1,800.00 in promised wages.

The employer testified that when the claimant was hired she had to go through an orientation seminar. All of the company benefits were presented at this time and the employees were given 60 days to select an insurance option. The claimant never filled out the forms to receive the stipend for not taking the company insurance.

On or about March 18, 2013 the claimant was asked again to make a selection and she never did so. The employer also said that the stipend is notices on every employee check and the claimant never brought the issue up for over a year.

FINDINGS OF FACT

RSA 275:43 I Every employer shall pay all wages due to employees within 8 days including Sunday after expiration of the week in which the work is performed, except when permitted to pay wages less frequently as authorized by the commissioner pursuant to paragraph II, on regular paydays designated in advance by the employer and at no cost to the employee

This is the section of the law that mandates an employer to pay an employee all wages due at the time the wages are due and owing.

It is the finding of the Hearing Officer, based on the written submissions and the testimony presented for the hearing, that the Wage Claim is invalid. The claimant has the burden to show that there are wages due and owing and she did not meet this burden.

The claimant could not show any evidence that she produced a document of coverage and she did not sign an authorization card after being asked twice. The claimant only said that she never noticed any funds coming into her wages on each regular check.

The employer stated that the process was well explained at the orientation and the employer made one more inquiry after the 60 day period. There is no record of any response from the claimant. In fact, even though the stipend was noted on any employee's check who took the stipend, the claimant did not raise the issue for about a year.

The Wage Claim is invalid.

DECISION

Based on the testimony and evidence presented, as RSA 275:43 I requires that an employer pay all wages due an employee, and as this Department finds the claimant failed to prove by a preponderance of the evidence that she was not paid all wages due, it is hereby ruled that the Wage Claim is invalid.

Thomas F. Hardiman
Hearing Officer

Date of Decision: October 15, 2014

TFH/slh